UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

RAYMOND W. LONDON, on behalf of himself and all others similarly situated,

Plaintiff,

vs.

NEW ALBERTSON'S, INC.; CERBERUS CAPITAL MANAGEMENT (CALIFORNIA), LLC; and SAVE MART SUPERMARKETS and DOES 2 through 25, inclusive,

Defendants.

CASE NO. 08-CV-1173 H (CAB)

ORDER DENYING AS MOOT DEFENDANTS' MOTIONS TO DISMISS PLAINTIFF'S COMPLAINT

On May 29, 2008, Plaintiff Raymond W. London ("Plaintiff") filed a complaint in the Superior Court of the State of California, County of San Diego, against defendants New Alberton's, Inc. and Cerberus Capital Management (California), LLC ("Cerberus"). (See Notice of Removal.) On July 1, 2008, Plaintiff added Save Mart Supermarkets as an additional named defendant pursuant to Cal. Code Civ. P. § 474. (Id., Ex. A.) On July 2, 2008, defendants New Albertson's, Inc. and Cerberus removed the entire action to this Court. (Doc. No. 1.)

On July 10, 2008, New Albertson's, Inc. and Cerberus filed separate motions to dismiss Plaintiff's complaint. (Doc. Nos. 5, 11.) On July 28, 2008, Plaintiff filed an amended complaint. (Doc. No. 14.) Accordingly, the Court denies as moot Defendants' motions to dismiss Plaintiff's original complaint, without prejudice to Defendants' ability to move for dismissal of Plaintiff's amended complaint.

IT IS SO ORDERED.

DATED: August 4, 2008

MARILYN L. HUFF, District Judge
UNITED STATES DISTRICT COURT

COPIES TO:
All parties of record.